REMARKS

Reconsideration and allowance of the above-referenced application are respectfully requested. The foregoing amendments are responsive to the February 1, 2007 Office Action. Applicants respectfully request entry of the requested amendments and reconsideration of the application in view of the following comments.

Response to objections under 35 U.S.C. § 101

Claims 1-58 stand rejected under 35 U.S.C. § 101 because the claims recite functional material (software). Applicants amend the claims herein to have the claims be directed to a computer readable medium including instructions stored thereon, which is patentable subject matter under 35 U.S.C. § 101.

Response to objections under 35 U.S.C. § 112, second paragraph

Claim 12 stands rejected under 35 U.S.C. § 112, second paragraph because it depends from itself. Applicants amend Claim 12 herein to correctly depend from Claim 11. Applicants respectfully submit that all claims now comply with the requirements of 35 U.S.C. § 112.

Response to the Claim Rejections Under 35 U.S.C § 103

Claims 1-58 are rejected under 35 U.S.C. § 103(e) as being unpatentable over U.S. Patent No. 5,848,397 issued to Marsh, et al. in view of U.S. Patent No. 6,298,332 issued to Montague. The rejection asserts that Marsh allegedly teaches each element of the claims except for only sending data when the user grants permission, which is allegedly taught by Montague. Claims 20, 21 and 23-58 are canceled herein.

The claims are amended herein to be directed toward compiling and transmitting usage data of advertising associated with a user device. Based on the usage data, the program may be restricted in use (see Fig. 17A-C, showing restrictions in features of the program if the usage data indicates ads not being seen).

None of the cited art teaches or suggests restricting the use of the program based on the usage data. Marsh never suggests a technique where the usage data indicates that the advertisements are not being seen, and thus Marsh cannot suggest any usage restriction. Montague does not teach anything regarding restricting use of a program.

In view of the foregoing distinctions, Applicants respectfully submit that independent Claim 1 is patentably distinguished over the cited art. Applicants respectfully submit that Claim 1 is in condition for allowance, and Applicants respectfully request allowance of Claim 1.

Claims 2-19 and 22 depend either directly or indirectly from independent Claim 1. Each dependent claim further defines the independent claim from which it depends. In view of the foregoing remarks regarding Claim 1, Applicants respectfully submit that Claims 2-19 and 22 are likewise in condition for allowance. Applicants respectfully request allowance of dependent Claims 2-19 and 22.

CONCLUSION

In light of the amendments contained herein, Applicants submit that the application is in condition for allowance, for which early action is requested.

Please charge any fees or overpayments that may be due with this response to Deposit Account No. 17-0026.

Respectfully submitted,

Dated May 1, 2007   By: /James T. Hagler/
                                                 James T. Hagler
                                                   Reg. No. 40,631
                                                   (858) 651-0266

QUALCOMM Incorporated
Attn: Patent Department
5775 Morehouse Drive
San Diego, California 92121-1714
Telephone: (858) 658-5787
Facsimile: (858) 658-2502